

Mediation

What is mediation?

Mediation is a voluntary process designed to help people resolve their disputes. In mediation people with a dispute meet with a neutral third party called a mediator. Mediators listen to what all parties involved have to say, help them explore possible solutions, and then, if they reach an agreement, help them put their agreement into writing.

Why should I mediate?

Mediation is less costly than litigation. If the case can be mediated early enough, litigants may save money on legal fees and other costs associated with litigation.

Mediation is effective. Mediated cases have a high rate of resolution and compliance. People tend to abide by the terms of an agreement they entered into voluntarily, especially when they crafted the terms themselves. Mediation is usually quicker than litigation.

Mediation is voluntary. No settlement or agreement is reached unless the participants jointly agree to do so.

Mediators are impartial. They do not take sides during the mediation. Mediators do not give legal advice. Mediators do not make a decision about the dispute for the parties or tell them what to do.

What kinds of cases can be mediated?

Mediation can be used to settle a wide range of disputes from matters involving real estate,

personal injury, property damages, claims of negligence, consumer complaints, commercial disagreements, breaches of contract, divorce, and construction disputes. Mediation may also be used in cases involving juvenile or adult offenders and their victims if all parties are willing to meet and talk about what happened.

Contact the local Community Dispute Resolution Program or an attorney to see if your case can be mediated.

Who are mediators?

Mediators come from many walks of life, areas of experience and expertise, including the legal profession. Mediators qualified to receive case referrals from courts in Michigan include trained volunteers serving through a local non-profit mediation center such as the Community Dispute Resolution Program, lawyers and other professionals who serve as mediators part-time, and professional mediators in private practice. In order to qualify to receive case referrals from the courts mediators in Michigan are required to:

- Complete a 40-hour training program approved by the State Court Administrative Office;
- Observe an number of live mediations;
- Mediate under observation by an approved mediator. **(MCR 2.411)**

Mediators who specialize in domestic relations cases must complete additional training specific to mediating divorce cases **(MCR 3.216)**.

How can I get my case to mediation?

There are several ways a case can get to mediation. If a case already has been filed with a court, the judge may order the case to mediation. However, parties can contact

a mediator or their local Community Dispute Resolution Program to initiate mediation instead of, before, or during litigation. Parties represented by an attorney should consult with their attorney regarding whether and when mediation will be useful in a particular case.

How is the mediator selected or assigned to my case?

Parties to a dispute are free to jointly select any person they agree is appropriate to mediate their dispute. To help parties find and select a trained mediator, many Michigan courts maintain a list of mediators qualified according to the standards set by the State Court Administrative Office. The court will provide a copy of that list upon request. Parties can also contact the local Community Dispute Resolution Program to initiate a mediation with a trained CDRP mediator.

Where does mediation take place?

The mediation session(s) take place at a location acceptable to the parties. A private conference room at a neutral site is recommended.

How much does mediation cost?

Mediators' professional fees vary widely. Information about all likely costs, including professional fees should be disclosed to you before you retain the mediator. The lists of mediators maintained by the courts include fees.

Is the agreement enforceable?

Once signed, a written agreement reached through mediation is legally binding on all parties to the agreement to the same extent as any other contract.

What about my legal rights?

If you participate in mediation and do not settle your case or reach an agreement, you have the same legal rights as you had before mediation.



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This information is not intended to substitute for legal advice or representation. Talk with an attorney if you have any question about how this information applies to your own situation.

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Courtesy of Barry Burnside and Amy Glass, esq.